

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

In RE:

Carlton E. Wheeler

Debtor.

)
)
)
) Case No.: 18-41530 EDK
)
) Chapter: 13
)

RESPONSE OF DEBTOR TO:

[26] MOTION OF U.S. BANK TRUST FOR *IN REM* RELIEF FROM STAY, OR IN THE
ALTERNATIVE, RELIEF FROM STAY

NOW COMES Carlton E. Wheeler, Debtor in the above captioned matter, and responds to the
above captioned as follows:

RESPONSES

- (1) Admit.
- (2) The Debtor is unable to admit or deny.
- (3) Upon information and belief, admit.
- (4) The Debtor is unable to admit or deny.
- (5) The Debtor is unable to admit or deny that which U.S. Bank is seeking. Denied as to the
factual and legal allegations.
- (6) The Debtor is unable to admit or deny that which U.S. Bank is seeking. Denied as to the
factual and legal allegations.
- (7) The Debtor is unable to admit or deny that which U.S. Bank is seeking. Denied as to the
factual and legal allegations.
- (8) The Debtor is unable to admit or deny.
- (9) The Debtor is unable to admit or deny.
- (10) The Debtor is unable to admit or deny.

(11) The Debtor is unable to admit or deny.

(12) The Debtor is unable to admit or deny.

(13) Upon information and belief, admit.

(14) The Debtor is unable to admit or deny.

(15) The Debtor is unable to admit or deny.

(16) Admit.

(17) Admit.

(18) Admit.

(19) The Debtor is unable to admit or deny.

(20) The Debtor is unable to admit or deny.

(21) The Debtor is unable to admit or deny.

(22) The Debtor is unable to admit or deny.

(23) Denied.

(24) Denied.

(25) Denied.

(26) Denied.

(27) Admit.

(28) Denied.

(29) Denied.

DISCUSSION

(30) The Debtor has advised counsel that he has made his post-petition mortgage payment due for September 2018. Counsel for the Debtor is uncertain at this time if the October 2018 payment has been made as of the date of this response.

(31) Confirmation of Debtor's Chapter 13 Plan is pending, and the Debtor is presently current with his Chapter 13 Plan payment.

(32) The proposed Chapter 13 plan provides for adequate protection payments to US Bank in the amount of the post-petition contractually due payments.

(33) The Debtor is to make direct payments to US Bank.

(34) The adequate protection payments provided for in the plan are enough to adequately protect the US Bank, as it is paying the contractually due amounts.

(35) US Bank is further adequately protected as there is current home owner's insurance;

(36) Under 11 U.S.C. §362 (d)(1) a lender may obtain relief from stay if “for cause, [including](#) the lack of adequate protection of an interest in property of such party in interest”

a. For all the reasons noted above US Bank is adequately protected.

(37) 11 U.S.C. §362 (d)(2) provides:

with respect to a stay of an act against property under subsection (a) of this section, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization

(38) For the reasons notes above the lender's §362 (d)(2) fails because: The purpose of the bankruptcy is to reorganize the Debtor's home mortgage.

WHEREFORE, Debtor requests that this Honorable Court:

a. Deny and overrule the motion; and

b. Grant any other relief that is fair and equitable.

Dated: October 12, 2018

Respectfully Submitted by,
Carlton E. Wheeler,
Through Counsel,

/s/ Robert W. Kovacs, Jr.
Robert W. Kovacs, Jr.
Bar No.: 671497
Kovacs Law, P.C.
131 Lincoln Street
Worcester, MA 01605
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Certificate of Service

I hereby certify that, upon information and belief, the above was electronically served via the CM/ECF System of the United States Bankruptcy Court for the District of Massachusetts upon the following CM/ECF Participates:

- United States Trustee
- Standing Trustee
- **Richard C. Demerle for U.S. Bank Trust, NA, as Trustee of the SCIG Series III Trust as serviced by BSI Financial Services**

Manuel Notice List

I further certify that I, on October 12, 2018 have served a copy of the same by first class mail, postage prepaid, on the non CM/ECF participates below.

Carl Wheeler
355 West Hartford Ave
Uxbridge, MA 01569

Dated: October 12, 2018

Respectfully Submitted by,

/s/ Robert W. Kovacs, Jr.
Robert W. Kovacs, Jr.
Bar No.: 671497